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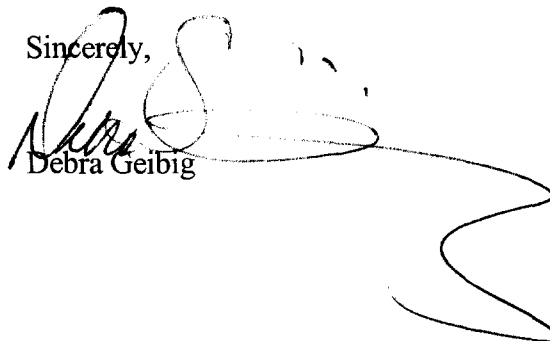
Secretary, Federal Communications Commission
1919 M. Street, N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of Implementation of Section 703 (e) of the Telecommunications Act of 1996, CS Docket number 97-151, Comments of the City of Colorado Springs on Behalf of Colorado Springs Utilities

Dear Sir or Madam:

Enclosed for filing is an original and 11 copies of the Comments of the City of Colorado Springs on behalf of Colorado Springs Utilities. If you have any questions regarding this filing, please do not hesitate to contact us.

Sincerely,


Debra Geibig

DLG/jmr

cc: Larry Walke
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FEDERAL COMMUNICATIONS

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)

Implementation of Section 703(e))
of the Telecommunications Act)
of 1996)

CS Docket No. 97-151

**COMMENTS OF
THE CITY OF COLORADO SPRINGS
ON BEHALF OF COLORADO SPRINGS UTILITIES**

Pursuant to section 1.415 of the Commission's Rules, the City of Colorado Springs, (the City) a Colorado home rule municipality, acting on behalf of Colorado Springs Utilities (CSU), an enterprise of the City, hereby respectfully submits its comments on the Federal Communications Commission's (FCC) Notice of Proposed Rule Making (NPRM), FCC 97-234, released August 12, 1996, in the above-captioned matter regarding the adoption of final rates, terms and conditions governing pole attachments.

I. Interest of CSU

CSU, a municipal enterprise of the City, provides electricity, natural gas, water and wastewater services to a combined total customer base of 494,098 customers. Although tax-exempt, CSU makes an annual payment in lieu of taxes to the City, which in 1996 equaled approximately \$16.8 million. Prices for its utility services run approximately 30 percent below the national average when considering all four utility services. CSU is rated as one of the five best operated municipal utilities in the country

by Standard & Poor's. CSU's electric distribution facilities include approximately 27,000 poles.

CSU recognizes that it, as a government owned utility, is exempt from federal pole attachment requirements under the Telecommunications Act of 1996. However, a state law unique to Colorado makes this proceeding of interest to CSU. Colo. Rev. Stat. § 38-5.5-108(1) provides as follows:

No municipally owned utility shall request or receive from a telecommunications provider or a cable television provider, as defined in section 602(5) of the federal "Cable Communications Policy Act of 1984", in exchange for permission to attach telecommunications devices to poles, any payment in excess of the amount that would be authorized if the municipally owned utility were regulated pursuant to 47 U.S.C sec. 224, as amended.

Accordingly, since Colorado law incorporates by reference the federal pole attachment rate as a cap, CSU is interested in the federal rate and the methods of its calculation.

II. CSU's Comments

CSU has reviewed the joint comments of the Edison Electric Institute (EEI) and the Telecommunications Association (UTC) and hereby generally concurs in their comments. In addition, CSU hereby specifically addresses issues of particular concern to it:

A. Overlapping and Attachment Space Use.

CSU supports the position of EEI and UTC that overlapping of an existing pole attachment should be treated as a separate attachment governed by a separate pole

attachment agreement and, if the overlash attachment is not used solely to provide cable services, that the pole attachment rate should be at the new fully allocated cost formula. CSU believes that EEI and UTC's contention that overlashing often has a significant impact on the pole and the utility as the pole owner is correct. CSU believes it is important that, as the owner of the pole, it will have the opportunity to require the evaluation of the impact of the proposed overlashing since such additional attachments do add weight and overall surface area, adding to the pole's load. Further, the utility needs to maintain complete records of all attachments for use during emergencies or routine rearrangement. Simply put, a utility needs to know who is on its pole, to have an opportunity to evaluate whether the pole can support additional attachments and to ensure such attachments are properly installed and maintained by qualified contractors. CSU concurs that failure to obtain authorization for overlashing constitutes a trespass.

After reviewing the examples cited by the UTC and EEI regarding overlashing problems, it is easy to foresee repetition of the described problems with greater frequency in the event that the FCC fails to address this issue in a manner that requires an orderly build out with authorization from the pole owner.¹

B. Allocation of Safety Space.

CSU concurs in the UTC and EEI's position that the safety space be considered as "other than useable space" apportioned equally among all attaching entities. CSU agrees that such an approach recognizes that the safety space benefits all users of the pole, attaching entities and owners alike.

¹ CSU does not admit that this policy would apply to municipally owned utilities pursuant to Colorado law.
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C. Allocating the Cost of Useable Space.

With respect to calculations using gross book costs vs. net book costs, CSU supports an approach that would allow a utility the flexibility to use either gross or net book costs in calculating pole attachment rates as long as they are consistent, or in the alternative, requiring calculations based on gross book costs. CSU currently calculates cable pole attachment rates based on gross book costs because this information is readily available from its accounting records, is consistent with its local regulatory accounting practices and is easily applied. To the extent possible, CSU prefers maintaining consistency in its calculations and seeks to avoid development of additional information to calculate rates based on net book costs.

D. Rights-of-Way Issues

CSU encourages the FCC to adopt a policy for attachment rates for the use of rights-of-way. Since CSU does own many rights-of-way, such a policy may be helpful as guidance. In addition, CSU believes that such a policy may facilitate predictability and uniformity for both the telecommunications providers and the utilities.²

III. Conclusion

For the above-stated reasons, CSU supports the EEI and UTC recommendations and comments.

² CSU does not admit that such a policy would apply to municipally owned utilities pursuant to Colorado law .
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Respectfully submitted this 25th day of September, 1997.

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